



Parties to the Nauru Agreement
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27 June 2019

Circular No: 2019-11

TO: Parties to the Nauru Agreement and Tokelau

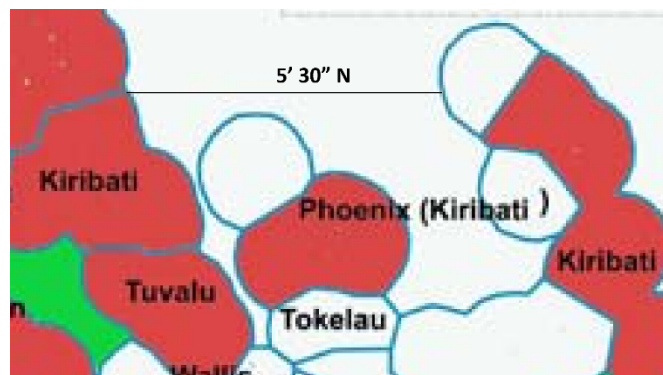
SUBJECT: REVISION OF THE 3RD IMPLEMENTING ARRANGEMENT: BUNKERING ON THE HIGH SEAS

At PNA38, Parties agreed to revise the text of the 3rd Implementing Arrangement to the Nauru Agreement to prohibit all bunkering in the high seas areas, as a term of all purse seine licenses. The agreed revision to the 3IA is to include a new paragraph 6 as follows:

6. Bunkering on the High Seas

(1) No purse seine vessel shall, during the validity of a license issued by a Party, conduct any bunkering or provisioning activities in the High Seas of the Western and Central Pacific Fisheries Commission Convention Area east of 130 degrees East. This condition shall be applied by the Parties from 1 January, 2020.

(2) Sub-paragraph (1) shall not apply to Kiribati flag purse seine vessels conducting bunkering and provisioning activities with another Kiribati flag vessel in the areas of high seas between the groups of islands in the Kiribati EEZ south of a latitude of 5 degrees 30 minutes North as shown in the map below:



(3) for the purpose of paragraph 6”:

“Bunkering activities” means the transfer to or receiving from a vessel fuel and oil

“Provisioning activities” means the transfer to or receiving from a vessel any supplies not limited to, food, cargoes, crew and spare part required by the vessel,

A revised version of the 3rd Implementing Arrangement showing the agreed changes is set out in Attachment A. A PDF version with changes incorporated also be downloaded from the PNA website at: <http://pnatuna.com/sites/default/files/3IA%20as%20of%20May%202019%29.pdf>

The attention of Parties is drawn to the agreement that this requirement will be applied under national laws from January 1, 2020. To assist with implementation, a draft Regulation and a draft Licence Condition are set out in Attachment B. As discussed at SPNA56 before the Ministerial meeting in Pohnpei recently, this requirement will likely need to be applied by regulation because it cannot be applied to US vessels by licence conditions;

Yours sincerely,



Ludwig Kumoru

Chief Executive Officer

ATTACHMENT A: REVISION OF THE 3RD IMPLEMENTING ARRANGEMENT: BUNKERING ON THE HIGH SEAS

A THIRD ARRANGEMENT IMPLEMENTING THE NAURU AGREEMENT SETTING FORTH ADDITIONAL TERMS AND CONDITIONS OF ACCESS TO THE FISHERIES ZONES OF THE PARTIES

(As amended 1 May 2019)

Pursuant to Articles I, II, III, and IX of the Nauru Agreement Concerning Cooperation in the Management of Fisheries of Common Interest, hereafter referred to as the "Nauru Agreement", wherein the Parties thereto agreed to conclude arrangements to facilitate the implementation of the Nauru Agreement, the Federated States of Micronesia, the Republic of Kiribati, the Republic of the Marshall Islands, the Republic of Nauru, the Republic of Palau, the Independent State of Papua New Guinea, Solomon Islands and Tuvalu,

HAVE AGREED AS FOLLOWS:

ARTICLE I *Licensing Terms and Conditions*

In addition to those terms and conditions provided in Article II of An Arrangement Implementing the Nauru Agreement Setting Forth Minimum Terms and Conditions of Access to the Fisheries Zones of the Parties, and Article I of A Second Arrangement Implementing The Nauru Agreement Setting Forth Additional Terms and Conditions of Access to the Fisheries Zones of the Parties, the Parties shall establish the following minimum terms and conditions in all of their subsequent foreign fishing agreements and their licensing requirements for vessels fishing the common stocks of fish within the Fisheries Zones and shall not issue licences unless the minimum terms and conditions are accepted and observed:

1. *Catch Retention*

All bigeye, skipjack and yellowfin tuna taken by a purse seine vessel shall be retained on board and then landed or transhipped, except for:

- (a) fish clearly and demonstrably unfit for human consumption; and
- (b) the final set of a trip when there may be insufficient wellspace to accommodate all fish caught in that set.

The Parties shall adopt appropriate procedures for the implementation of this measure, including reporting.

2. *FAD Closure*

- (1) There shall be no deployment or servicing of Fish Aggregating Devices and associated electronic equipment, or fishing by purse seine vessels on floating objects, between 0001 hours GMT on 1 July and 2359 hours GMT on 30 September each year, except that:
 - (a) a Party may exclude all or part of its Fisheries Zone from the closure if it determines that it has suffered a disproportionate burden from application of the closure and advises the depositary accordingly; and
 - (b) a Party may apply appropriate arrangements set out in a Management Plan to meet the requirements of domestic vessels that are highly dependent on fishing on floating objects within the Fisheries Zone; and
- (2) In the event the Parties learn, through consultations with competent regional scientific authorities or bodies, that there is threat to the fish stock and requires further conservation measures, Parties may decide to impose an additional FAD closure to what is provided in sub-paragraph (1), up to the maximum of three months each year.
- (3) The Parties shall adopt appropriate procedures in the implementation of the additional FAD closure in sub-paragraph (2).

2A. *Prohibition of Sets Associated with Whale Sharks*

- (a) No purse seine vessel shall engage in fishing or related activity in order to catch tuna associated with whale sharks (*Rhincodon typus*).

3. *Closure of High Seas Areas*

A vessel shall not fish in the areas listed below during the period of validity of a licence issued by a Party:

- (a) the area of high seas bounded by the national waters of the Federated States of Micronesia, Indonesia, Palau and Papua New Guinea; and
- (b) the area of high seas bounded by the national waters of the Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, Papua New Guinea, Solomon Islands and Tuvalu.

4. *Monitoring*

- (a) In order to monitor compliance with the catch retention and FAD closure requirements, all foreign purse seine vessels shall carry at all times an observer from either the national observer programme of a Party or an existing sub-regional observer programme; and
- (b) The owner, charterer, operator, master or any other person responsible for the operation of a

licensed vessel shall ensure that the Automatic Location Communicator¹ of the vessel is switched on and is operating properly at all times during the period of validity of a licence issued by a Party.

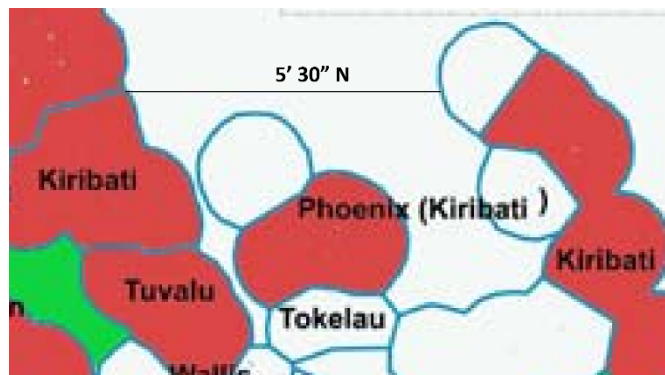
5. *Minimum Mesh Size*

- (1) No purse seine vessel shall use or have in its possession a purse seine net which is smaller or less than a minimum size of 90 mm (3.5ins) measured from knot to knot in the bunt and 240 mm (9ins) in 70% of the body of each purse seine net.
- (2) The Parties shall adopt appropriate procedures in the implementation of this measure.
- (3) A Party shall ensure that its domestic vessels take appropriate steps to comply with the minimum mesh size within a three year period from the date of coming into effect of this measure.

6. *Bunkering on the High Seas*

(1) No purse seine vessel shall, during the validity of a license issued by a Party, conduct any bunkering or provisioning activities in the High Seas of the Western and Central Pacific Fisheries Commission Convention Area east of 130 degrees East. This condition shall be applied by the Parties from 1 January, 2020.

(2) Sub-paragraph (1) shall not apply to Kiribati flag purse seine vessels conducting bunkering and provisioning activities with another Kiribati flag vessel in the areas of high seas between the groups of islands in the Kiribati EEZ south of a latitude of 5 degrees 30 minutes North as shown in the map below:



¹ Automatic Location Communicator is also known as Mobile Transmitting Unit.

(3) for the purpose of paragraph 6”:

“Bunkering activities” means the transfer to or receiving from a vessel fuel and oil; and

“Provisioning activities” means the transfer to or receiving from a vessel any supplies not limited to, food, cargoes, crew and spare part required by the vessel,

ARTICLE II ***Review and Implementation***

Review

1. The Parties shall review the implementation of these measures at the annual meeting of the Parties, and decide on the future application of these measures, taking into account:
 - (a) the effectiveness of the measures in reducing fishing mortality, especially on juvenile bigeye and yellowfin tuna; and
 - (b) the extent to which compatible measures are being applied on the high seas and in the waters of other Members of the Western and Central Pacific Fisheries Commission.

Implementation

2. These measures shall be implemented in accordance with a programme adopted by the Parties.

ARTICLE III ***Signature and Effect***

1. This Arrangement shall be open for signature by the Parties to the Nauru Agreement.
2. This Arrangement shall take effect 30 days following the signing of the Arrangement by at least five of the Parties to the Nauru Agreement. Thereafter, it shall take effect for any signing Party 30 days after its signature of the Arrangement.
3. This Arrangement shall be deposited with the Government of the Solomon Islands.
4. Reservations to this Arrangement shall not be permitted.

ARTICLE IV ***Amendment and Withdrawal***

1. Any Party may withdraw from this Arrangement by giving written notice to the Depository. Withdrawal shall take effect one year after receipt of such notice.
2. Any amendment to this Arrangement proposed by a Party shall be adopted only by unanimous decision of the Parties to this Arrangement.

ARTICLE V
The Nauru Agreement

This Arrangement is subordinate to and governed by the Nauru Agreement.

IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments have signed this Agreement.

DONE at Koror, Palau this 16th day of May 2008

Federated States of Micronesia _____

Republic of Kiribati _____

Republic of the Marshall Islands _____

Republic of Nauru _____

Republic of Palau _____

Papua New Guinea _____

Solomon Islands _____

Tuvalu _____

Attachment C.

Implementing Provisions

Suggested Legislation/Regulations language	Suggested Condition of License language
<p>Prohibition of Bunkering and Provisioning by Purse Seine vessel in the High Seas</p> <p>(1) No purse seine vessel shall, during the validity of a license issued by a Party, conduct any bunkering or provisioning activities in the High Seas of the Western and Central Pacific Fisheries Commission Convention Area east of 130 degrees East.</p> <p>(2) Sub-paragraph (1) shall not apply to Kiribati flag purse seine vessels conducting bunkering and provisioning activities with another Kiribati flag vessel in the areas of high seas between the groups of islands of the Kiribati EEZ south of a latitude of 5 degrees 30 minutes North,"</p> <p>(3) for the purpose of this section/regulation:</p> <p>“Bunkering activities” means the transfer to or receiving from a vessel fuel and oil “Provisioning activities” means the transfer to or receiving from a vessel any supplies not limited to, food, cargoes, crew and spare part required by the vessel,</p> <p>(1) A contravention of this regulation/section..... is an offence and punishable with a fine of not exceeding \$.....</p>	<p>Prohibition of Bunkering and Provisioning by Purse Seine vessel in the High Seas</p> <p>(1) No purse seine vessel shall, during the validity of a license issued by a Party, conduct any bunkering or provisioning activities in the High Seas of the Western and Central Pacific Fisheries Commission Convention Area east of 130 degrees East.</p> <p>(2) Sub-paragraph (1) shall not apply to Kiribati flag purse seine vessels conducting bunkering and provisioning activities with another Kiribati flag vessel in the areas of high seas between the groups of islands of the Kiribati EEZ south of a latitude of 5 degrees 30 minutes North,"</p> <p>“Bunkering activities” means the transfer to or receiving from a vessel fuel and oil</p> <p>“Provisioning activities” means the transfer to or receiving from a vessel any supplies not limited to, food, cargoes, crew and spare part required by the vessel,</p>